UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,633	09/26/2003	David G. Boyer	633-061us	8084

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ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
04/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@dblaw.com

	Application No.	Applicant(s)
	10/672,633	BOYER ET AL.
Office Action Summary	Examiner	Art Unit	
	MELODY MEHRPOUR	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>07 March 2011</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-24</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1.   **Claims 1-8, 11-13, 16-24**, are rejected under 35 U.S.C. 103(a) as being unpatentable

over Agrawal et al. (US Patent 7,447,495 B2).

Regarding claims 1, 12, 17, Agrawal teaches an apparatus/method for delivering a

voice mail message to a recipient, comprising:

a memory (col 5 lines 23-39); and

at least one processor, coupled to the memory, operative to (col 5 lines 24-39, col 6

lines 57-67) and obtain a presence status of said sender from a presence server (col 7

lines 1-10); and identification of at least one device where the sender is present (col 7

lines 1-10); deliver said mail message to said recipient with the sender the indication of

presence of the sender (col 6 lines 64-67, col 7 lines 1-2) the indication of a presence of

said sender the indication an identification of at least one sender is present (col 7 lines

1-10). Agrawal teaches a method wherein user presence data can be used in various

applications. For example, a buddy list can be presented to an instant messaging user

to identify members of the buddy list that are currently available. Alternatively, user

presence data can be configured to indicate when a user will become available, or if a

user is reachable, but not currently available. User presence data can be

configured to provide alerts as users log on or off an application such as an

instant messaging application, or designate an address for message delivery.

For example, user presence could indicate that a user is available by cell

phone and currently unavailable by desktop. In addition, user presence data

can include cell phone status such as data or voice mode indications and

applications configured to transmit messages appropriately. In a representative

example, user actions based on a selected application (such as instant messaging,

word processing, email, data communication, voice messaging) can be used to

establish or update user activity status data (automatically). Such user activity status

data is associated with network actions by the user based on actual network use by the

user. Communication with other users and/or with applications can be based

on user activity status data (delivering a voice mail message to the recipient with an

indication of a presence of the sender). Agrawal may not specifically mention that the

method teach receive said voice mail message from a sender, and deliver said voice

mail message to said recipient with the sender the indication of presence of the

sender. However, the Examiner takes official notice that receiving voice mail instead of

e- mail is a well feature in the art. Therefore, it would have been obvious to ordinary

skill in the art at the time the invention was made to combine the above teaching with

Agrawal, in order to notify the user of the incoming telephone call in response to the

telecommunication interface intercepting the incoming telephone call prior to ringing of

the incoming telephone call.

Regarding claims 2, 18, Agrawal teaches a method/apparatus wherein said presence server

extracts presence information from a plurality of presence data stores (col 7 lines 10-23).

Regarding claims 3, 19, Agrawal teaches a method/apparatus of claim 2, wherein said presence

server translates said presence information to a standard format (col 7 lines 10-23).

Regarding claims 4, 20, Agrawal teaches a method/apparatus wherein said presence server

determines said presence status of said sender based on one or more rules that aggregate

extracted presence information (col 7 lines 22-35).

Regarding claims 5, 21, Agrawal teaches a method/apparatus wherein said recipient responds to

said sender in another domain (col 7 lines 22-44).

Regarding claims 6, 22, Agrawal teaches a method/apparatus wherein said presence information

indicates if the message sender can be reached at one or more indicated devices (0098, 0102).

Regarding claims 7, Agrawal teaches a method of claim 1, wherein said presence information is

obtained from a user registration process (col 7 lines 1-10).

Regarding claims 8, Agrawal teaches a method of claim 1, wherein said presence information is

obtained by observing activities of a user (col 8 lines 23-32).

Regarding claims 11, 16, 23, Agrawal teaches a method/apparatus wherein said recipient can

respond to said sender using a non-textual form of communication (col 7 lines 2-10).

Regarding claim 13, Agrawal teaches a method of claim 12, wherein said providing step allows

said recipient to respond to said sender in another domain (col 7 lines 23-50).

Regarding claim 24, Agrawal teaches an apparatus of claim 17, wherein said presence status

    indicates a presence status of said sender across a plurality of domains (col 7 lines 23-50).

2.   **Claims 9-10, 14-15**, are rejected under 35 U.S.C. 103(a) as being unpatentable over

Agrawal (US Patent 7,447,495 B2) in view of Haim (US Patent 6,718,014)

Regarding claims 9, 14, Agrawal fails to teach a method/apparatus

wherein said recipient can respond to said sender in real time. However, Haim teaches a

method/apparatus wherein said recipient can respond to said sender in real time (col 4 lines 5-15,

col 1 lines 8-14). Therefore, it would have been obvious to ordinary skill in the art at the time the

invention was made to combine the above teaching of Haim with Agrawal modified, in order to

notify the user of the incoming telephone call in

response to the telecommunication interface intercepting the incoming telephone call prior to

ringing of the incoming telephone call.

Regarding claims 10, 15, Agrawal fails to teach a method wherein said recipient can respond to

said sender in non-real time. Haim teaches a method wherein said recipient can respond to said

sender in non-real time (col 1 lines 8-14, col 4 lines 5-15). Therefore, it would have been obvious

to ordinary skill in the art at the time the invention was made to combine the above teaching of

Haim with Agrawal, in order to notify the user of the incoming telephone call in response to the

telecommunication interface intercepting the incoming telephone call prior to ringing of the

incoming telephone call.

Response to Arguments

3.   Applicant's arguments filed 03/07/11 have been fully considered but they are not

persuasive.

First, the applicant argue that Agrawal disclose that a server obtain the presence information of a

recipient and not the presence information of a sender. However, Agrawal fails to teach a method

wherein "deliver said voice mail message to <u>said recipient</u> with the sender the indication of

presence of the sender"*!!!!*

The Examiner asserts that Agrawal teaches user presence data can be used in various

applications. For example, a buddy list can be presented to an instant messaging user to identify

members of the buddy list that are currently available. Alternatively, user presence data can be

configured to indicate when a user will become available, or if a user is reachable, but not

currently available. **User presence data can** be

configured to provide alerts as users log on or off an application such as an instant

messaging application or designate an address for message delivery. For example, user

presence could indicate that a user is available by cell phone and currently unavailable by

desktop. In addition, user presence data can include cell phone status such as data or ~

mode indications and applications configured to transmit messages appropriately. In a

representative example, user actions based on a selected apron (such as instant messaging, word

processing, email, data communication, ~ **messaging) can be used to establish or update user**

activity status data (automatically). Such user activity status data is associated with network

actions by the user based on actual network use by the user. Communication with other users

and/or with applications can be based on user activity status data (delivering a voice mail

message to the recipient with an indication of a presence of the sender).

Second, the applicant argues that the best mode of communication to use when responding to an

instant message dose not arise in Agrawal !!!

This argument is not related to the applicant's claims, it is noted that the features upon which

applicant relies (i.e.,...receiving said voice mail message from a sender;

obtaining a presence status of said sender from a presence server; and

delivering said voice mail message to said recipient with an indication of a presence

of said sender, said indication including an identification of at least one device where said sender

is present.") are recited in the rejected claims. Although the claims are interpreted in light of the

specification, limitations from the specification are not read into the claims. See In re Van

Geuns, 988 F.2d 1181,26 USPQ2d 1057 (Fed. Cir. 1993).

Third, in response to applicant's argument that the Agrawal fails to show certain features of

applicant's invention, again the Examiner as previously mentioned in the last rejection, it is

noted that the features upon which applicant relies (i.e.,instant messaging proxy client …) are not

recited in the rejected claims. Although the claims are interpreted in light of the specification,

limitations, from the specification are not read into the claims. See In re Van Geuns, 988

F.2d 1181, USPQ2d 1057 (Fed. Cir. 1993).

Fourth, again the applicant's repeated the same argument that Agrawal does not disclose

"delivering said voice mail message to said recipient with an indication of a presence of said sender, said indication

including an identification of at least one device where said sender is present "

The Examiner asserts that <u>it appears that the applicant are interpreting in light of the</u>

<u>specification, limitations more that the claimed features from the specification are not read into</u>

<u>the claims.</u> See In re Van Geuns, 988 F.2d 1181, USPQ2d 1057 (Fed. Cir. 1993).

The Examiner asserts that Agrawal teaches user presence data can be used in various

applications. For example, a buddy list can be presented to an instant messaging user to identify

members of the buddy list that are currently available. Alternatively, user presence data can be

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mode indications and applications configured to transmit messages appropriately. In a

representative example, user actions based on a selected apron (such as instant messaging, word

processing, email, data communication, ~ **messaging) can be used to establish or update user**

activity status data (automatically). Such user activity status data is associated with network

actions by the user based on actual network use by the user. Communication with other users

and/or with applications can be based on user activity status data (delivering a voice mail

message to the recipient with an indication of a presence of the sender).

Conclusion

4.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Examiner Notes

Examiner cites particular columns and line numbers in the references as applied to

the claims below for the convenience of the applicant. Although the specified citations are

representative of the teachings in the art and are applied to the specific limitations within the

individual claim, other passages and figures may apply as well. It is respectfully requested that,

in preparing responses, the applicant fully consider the references in entirety as potentially

teaching all or part of the claimed invention, as well as the context of the passage as taught by

the prior art or disclosed by the examiner

In the case of amending the claimed invention, Applicant is respectfully

requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds

of the claimed invention.

5.   **Any responses to this action should be mailed to:**

        Any inquiry concerning this communication or earlier communications from the

examiner should be directed to MELODY MEHRPOUR whose telephone number is

5(571)272-7913. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dwayne Bost be reached (571) 272-7023.

The fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Naghmeh Mehrpour/

Primary Examiner, Art Unit 2617

March 17, 2011